

FIRST AMENDMENT OF LEASE AND OPERATING AGREEMENT**Parties:**

Philadelphia Regional Port Authority &
3460 N. Delaware Avenue, 2nd Floor
Philadelphia, PA 19134 ("Landlord")

Kinder Morgan Liquids Terminals LLC
3300 N. Delaware Avenue
Philadelphia, PA 19134 ("Tenant")

EFFECTIVE
AUG 18 2011

Lease History:

Lease & Operating Agreement

Filed with FMC

January 29, 2010

FMC Reference No:

201112-002

The Lease & Operating Agreement is hereinafter collectively referred to as the "**Lease**".

The Lease Year in effect at this time is the period of January 1, 2011 through December 31, 2011.

Background:

Tenant desires to construct an underground pipe tunnel with pipe fixtures upon Landlord's property to expand its business potential. Landlord has reviewed the preliminary proposal and is in favor of allowing the installation of an underground pipe tunnel with pipe fixtures upon Landlord's property.

NOW, THEREFORE, intending to be legally bound hereby and in exchange for good, valuable and sufficient consideration received, Landlord and Tenant covenant and agree as follows:

1. Effective Date. This First Amendment to Lease and Operating Agreement ("**Amendment**") shall become effective on the date on which an executed copy hereof is filed with the FMC in accordance with the Shipping Act of 1984. Landlord shall cause this Amendment to be filed with the FMC promptly following the execution and delivery hereof.
2. Definitions. Unless otherwise defined in this Amendment, all terms defined in the Lease shall have the meanings ascribed to them in the Lease when used in this Amendment.
3. Scope of Work. Tenant shall be responsible for all design and construction costs related to Tenant's installation of an underground pipe vault and related piping as shown on **Exhibit "A"** attached hereto and incorporated by reference ("**Tenant Work**"). This work is being done at the Tenant's request and by Tenant's direction and Landlord will not be a party to contracts for the Tenant Work.

Tenant and Landlord recognize that the drawing shown as Exhibit A is the preliminary layout and the parties will work cooperatively during the design and construction. Tenant represents and warrants that all design work will be stamped by a professional engineer licensed to do

business in Pennsylvania. Tenant will provide copies of as-built drawings in the format requested by Landlord upon completion of the Tenant Work.

Tenant represents that the Tenant has visited the location for the Tenant Work as depicted on Exhibit A ("Site") and examined the physical condition of the Site, and that the Tenant accepts the Site as is for the performance and completion of the Tenant Work. Tenant assumes all risks resulting from Tenant's reliance upon test data or plans provided by Landlord solely as a reference, and Tenant assumes all risks resulting from any changes in the conditions of the Site which may occur during the progress of the Tenant Work.

Tenant shall be responsible for giving all notices and complying with all applicable laws, ordinances, regulations, rules, and orders of any public authority relating to the performance bearing on the Tenant Work, as may be amended from time to time. The Tenant shall obtain all permits and licenses required by Federal, State, and local laws, ordinances, and regulations which are applicable to the Tenant and the Tenant Work; and the Tenant shall pay all necessary fees, costs, or expenses incurred in obtaining such permits and licenses including, but not limited to, building permits, water permits, air permits and certificates of occupancy.

Tenant represents and warrants that it will either complete the Tenant Work in a professional manner prior to January 1, 2012, or it will restore the Site to the condition existing prior to commencement of the Tenant Work unless the parties agree to an extension of time.

Tenant's obligations regarding nonstructural alterations, additions or improvements ("Trade Fixtures") concerning the Tenant Work shall be handled according to the terms stated in Section 6.12 in the Lease.

4. Release and Indemnification of Tenant Work.

In addition to the specific limitations of liability contained elsewhere in this Amendment, Landlord shall not be liable for any claims for any work performed on the Tenant Work by Tenant, its employees, agents, contractors, subcontractors and servants. Tenant releases and discharges Landlord, the Commonwealth and their officers, employees, and agents, for any and all claims that may arise from the performance of Tenant Work by Tenant.

The Tenant shall indemnify, defend, and hold harmless the Landlord, the Commonwealth, and their officers, employees, and agents, from and against any and all losses, costs (including litigation costs and counsel fees), claims, suits, actions, damages, liability, and expenses in connection with loss of life, bodily injury, personal injury, or damage to tangible property to the extent occasioned wholly or in part by the Tenant, its officers, agents, employees or servants acts or omissions directly related to the performance of the Tenant Work by Tenant, its officer, agents, employees or servants.

5. Coordination of Work. Landlord has contracted with Commerce Construction Corporation to perform Waterside Repairs at Tioga Marine Terminal ("**Landlord Work**"). Tenant Work shall be conducted so as not to interfere with the Landlord Work. Tenant shall

coordinate with Landlord the scheduling of Landlord work. Landlord shall not be liable to Tenant for any increased costs from coordination or, interference, or delays due to Landlord Work. Landlord Work contemplates such work being temporarily halted for a dedicated number of ship moves. If, during the performance of the Tenant Work, Landlord exceeds the number of work stoppages due to ship moves, Tenant agrees to reimburse Landlord the cost per stoppage.

If, in the judgment of the Landlord, the Tenant is taking undue risk of damage by proceeding with the Tenant Work during unfavorable weather or other conditions, and such work is not for the joint benefit of the Landlord and the Tenant, or for the sole benefit of the Landlord, then the Landlord may, after giving Tenant notice and an opportunity to modify or suspend the Tenant Work, suspend the Tenant Work temporarily, either wholly or in part for such periods as may be necessary on account of unsuitable weather or other conditions unfavorable to the safe and proper performance of the Tenant Work. No allowance will be made to the Tenant for any expenses or damages resulting therefrom.

6. Tenant Contractor's Insurance.

In addition to the insurance requirements set forth under the Lease, Tenant shall cause its contractors performing the Tenant Work to procure and maintain in full force and effect, the types of insurance specified below. Insurance required by this section shall be procured from reputable insurers that are authorized to do business in the Commonwealth. The insurance required by this section, except the Professional Liability Insurance, shall be written on an "occurrence" basis and not a "claims-made" basis.

In no event shall Tenant Work proceed until the required evidence of insurance has been furnished to the Landlord. If the Tenant fails to cause its contractors to obtain or maintain the required insurance, Landlord reserves the right to direct Tenant to cease all Tenant Work and treat such failure as a material breach of the Lease and to exercise all appropriate rights and remedies. The insurance policies required by this section shall provide for at least thirty (30) Days' prior written notice to be given to the Landlord in the event coverage is materially changed, cancelled or non-renewed.

All insurance requirements as stated in Article V in the Lease continue to apply to Tenant for the performance of the Tenant Work.

The amount of insurance required for Tenant's Contractor by this section is as follows:

1. Workers' Compensation and Employers Liability and/or Harbor Workers' Compensation Act, the Jones Act or other Maritime Employer's Liability Act:

A. Workers' Compensation: Statutory limits.

B. Employers Liability: \$500,000 each accident - bodily injury by accident; \$500,000 each employee - bodily injury by disease; and \$500,000 policy limit - bodily injury by disease.

C. Other States' coverage and Pennsylvania endorsement.

2. General Liability Insurance:

A. Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury and property damage; \$1,000,000 personal and advertising injury; and \$2,000,000 general aggregate.

B. Coverage: Premises operations; blanket contractual liability; personal injury liability (employee exclusion deleted); products and completed operations; independent Tenants; employees and volunteers as additional insureds; cross liability; and broad form property damage (including completed operations).

3. Automobile Liability:

A. Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury and property damage liability.

B. Coverage: Owner, non-owned and hired vehicles.

4. Professional Liability Insurance (if required):

A. Professional Liability Insurance for projects that involve design services, including, but not limited to, design/build contracts.

B. Limit of Liability: \$1,000,000 with a deductible not to exceed \$25,000.

C. Coverage: Errors and omissions.

D. Coverage for occurrences happening during the performance of the Work shall be maintained in full force and effect under the insurance policy or "tail" coverage for a period of at least two (2) years after completion of the Work.

5. Pollution Liability Insurance at a minimum of \$1,000,000 per occurrence with an aggregate of \$2,000,000.

Certificates of insurance evidencing the required coverages shall be submitted to the Landlord's Insurance Department at least ten (10) Days before Tenant Work begins. This ten (10) Day requirement for advance documentation of coverage may be waived in situations where such waiver will benefit the Landlord, but under no circumstances shall the Tenant actually begin

Tenant Work without providing the required evidence of contractor insurance. The Landlord reserves the right to require the Tenant to furnish certified copies of the original policies of all insurance required under the Contract Documents at any time upon ten (10) Days' prior written notice to the Tenant.

It is expressly understood and agreed that the furnishing of insurance pursuant to this section shall in no way limit the liability or responsibilities and obligations of the Tenant.

Where applicable, all insurance shall provide coverage for work being performed within fifty (50) feet of a railroad.

The Tenant's contractor's certificate of insurance for general liability shall contain the following statement: "The risks covered in this policy include all risks inherent in performing demolition work, including but not limited to the following: explosion, collapse, and underground hazards."

The Tenant's contractor's certificate of insurance for workers; compensation shall contain the following statement: "All workers performing demolition work under this contract are covered under the classification for demolition workers."


The Tenant's contractor's coverage shall include adequate protection against the special hazard of blasting in the amount of at least three hundred thousand dollars (\$300,000).

7. Remedies. All Landlord remedies as set out in Section 15.1.1 in the Lease apply to this Amendment.

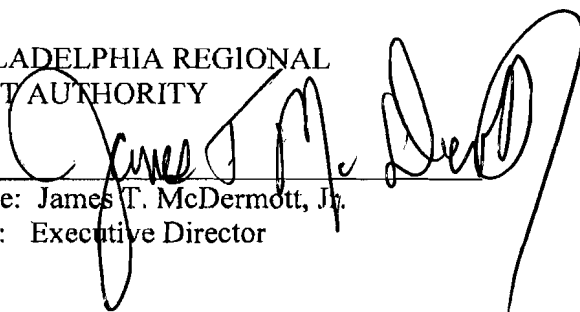
8. Lease Remains in Effect. The Lease, as amended hereby, shall remain in full force and effect and time remains of the essence of the Lease and this Amendment. In the event of any conflict or any inconsistencies between the terms of the Lease and the terms of this Amendment, the terms of the Lease shall govern and control.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the date first above written.

KINDER MORGAN LIQUIDS
TERMINALS LLC

By: 
Name: DAVID VATTIMO
Title: Vice President

PHILADELPHIA REGIONAL
PORT AUTHORITY

By: 
Name: James T. McDermott, Jr.
Title: Executive Director

Approved as to Legality
and Form:

PHILADELPHIA REGIONAL
PORT AUTHORITY

By: 

Name: Gregory V. Iannarelli, Esq.
Title: Chief Counsel

Approved as to Propriety and
Availability of Funds:

PHILADELPHIA REGIONAL
PORT AUTHORITY

By: 

Name: Edward G. Henderson
Title: Director of Finance & Capital Funding

OFFICE OF THE ATTORNEY
GENERAL

By:  8/5/11

Name: Robert A. Mülle, Esq.
Title: Chief Deputy Attorney General

OFFICE OF THE BUDGET

By: 

Name: Joseph Lawruk
Title: Comptroller

Exhibit A

